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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,948	09/19/2003	Stephen J. Smith	174/161 Cont	7049
36981	7590	05/13/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			SURYAWANSHI, SURESH	
			ART UNIT	PAPER NUMBER
			2115	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,948

Applicant(s)

SMITH ET AL.

Examiner

Suresh K. Suryawanshi

Art Unit

2115

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/5/05 response.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 15-18 and 28-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 15-18 and 28 is/are rejected.
7) ☒ Claim(s) 29-33 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-4, 15-18 and 28-33 are presented for examination.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office Action.
3. Claims 1-4 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura et al (US Patent No 5,537,601).
4. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Kodosky et al (US Patent No 6,219,628).
5. Claims 29-33 are objected to as being dependent upon a rejected base claim 28, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2115

6. The rejections are respectfully maintained and incorporated by reference as set forth in the last office action.

7. Applicant's arguments filed 4/5/2005 have been fully considered but are not persuasive.

8. In the remarks, applicants argued in substance that (1) Kimura does not show or suggest implementing the CPU on the DSP or PL part; (2) Kimura does not show or suggest swapping configuration data between the external memory and the programmable logic part; (3) Kodosky does not show or suggest that the computer-implemented system autonomously determines, during run-time, whether to use a hardware implementation or a software implementation.

9. As to point (1), Kimura clearly shows or suggests implementing a CPU on a programmable logic resource as shown in figures 35, 39, 40. Plus, claims 1, 25, 34 and 45 clearly show and suggest a processor that is implemented on a programmable logic.

10. As to point (2), Kimura shows or suggests swapping configuration data between the external memory and the programmable logic part as shown in figure 24 [PL1 reading and writing data to FM1 or FM2 or FM3 as shown by arrows]. Plus, claims 1, 25, 34 and 45 clearly show and suggest that the processor and the programmable logic each connected for input and output of data with the system.

Art Unit: 2115

11. As to point (3), language of claim 28 nowhere reads or claims that the system autonomously determines whether to use a hardware implementation or a software implementation [emphasis added]. Therefore, Kodosky anticipates the claim 28 as Kodosky discloses a computer implemented system and method for automatically creating hardware implementations of portions of a graphical program as recommended by user during the graphical program execution [col. 4, lines 10-40; col. 9, lines 30-45; col. 13, lines 20-23].

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Surish K. Suryawanshi whose telephone number is 571-272-3668. The examiner can normally be reached on 9:00am - 5:30pm.

Art Unit: 2115

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sks

May 3, 2005


